



Title      Supporting Transgender People in  
Employment, An Exploration of Key Challenges  
for Employers

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MSC HUMAN RESOURCE MANAGEMENT (CIPD ACCREDITED)

# Supporting Transgender People in Employment

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An Exploration of Key Challenges for Employers

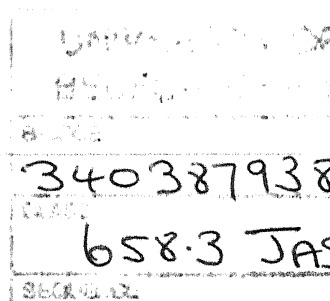
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This research paper aims to provide guidance for HR professionals and organisations on how to support trans employees whilst adhering to Best Practice and complying with the UK's Equality Act (2010)

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## **1.1 Executive Summary**

### **1.1.1 Aim of Research Paper**

Issues relating to gender realignment within the workplace are a contemporary area of discussion within the field of human resources. According to McLynn & Garnett (2001), “there appears to be a disturbing ignorance among employers about the legal protection of transsexuals and good equal opportunities practice”. Despite the presence of employment protection legislation, research has found that many employers failed in their duty to protect trans workers from bullying and harassment.

The aim of this paper is to provide guidance for HR professionals and organisations on how to support trans employees whilst adhering to Best Practice and complying with the UK’s Equality Act (2010). The paper addresses the following key research questions:

1. What are the key challenges involved in the workplace when an employee undergoes gender realignment?
2. How can employees undergoing gender realignment be managed effectively whilst remaining compliant with the Equality Act (2010)?

### **1.1.2 Research Methods**

This paper predominantly utilises qualitative data as the researcher was investigating for deeper understanding into the ‘phenomenon’ of supporting trans employees through gender realignment.

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An inductive approach had been utilised as the research questions and objectives required greater understanding of the social issues experienced by trans workers.

To help answer the research questions, an in depth interview with one key informant (Louise) and an extended questionnaire with another key informant (Bella) was implemented to gain insight into the work experiences and issues that they had faced. Interviewing a statistically low sample does not allow for accurate generalisation, therefore the researcher considered the findings of contemporary secondary research with the view of generating meaningful recommendations.

### **1.1.3 Key Findings**

The fundamental issue emerging from the literature and primary data was that many employers tended to be unaware of workplace adjustments needing to be made for a trans employee or potential trans employees at any stage of their transition. Consequently, high numbers of trans people suffer workplace discrimination and instances of bullying and harassment by colleagues. The primary and secondary research revealed the following challenges in the workplace requiring consideration at any stage of transition:

1. Informing management and colleagues of intention to undergo gender realignment
2. Relationships with colleagues after “coming out”
3. The right to privacy

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4. Leave for gender realignment appointments and procedures
5. Disclosure
6. Obstacles concerning recruitment and selection

After considering the findings, the researcher investigated examples of Best Practice which were advocated by LGBT groups and adhered to the current Equality Act (2010) before formulating cost-effective recommendations for use by employers.

#### **1.1.4 Recommendations**

- Agreeing on a Plan of Action
  - Develop a plan for managing an employee's transition. No transition is the same as another; therefore plans should be tailored to suit the needs of each individual
- Establish a main point of contact to support individual and answer queries from colleagues
- Agree leave entitlement for treatments and appointments
  - Treatments have various recovery times and conducting a sensible assessment of how much time will need to be taken off throughout the course of transition is beneficial
- Assess the workplace climate to help devise an appropriate strategy to inform colleagues

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about individual's upcoming transition

- Ensure monitoring of relationships with colleagues through one-to-one meetings
- Undertake measures to maintain privacy of individual
- Revise recruitment processes to avoid unintentional disclosure of trans status of applicants at application, interviewing and employment clearances stages

Although the use of a small sample size poses a key limitation, the researcher proposes that this paper is just the beginning for further research. The topic of trans people in the workplace (at this point in time) has been poorly investigated and lacks behind other equality and diversity issues. As a result, this paper serves to provide a foundation upon which further research may be conducted.

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## 2.1 Introduction

Issues relating to gender realignment within the workplace are a contemporary area of discussion within the field of human resources (HR). A wealth of information and literature is available for equality and diversity issues relating to age, race and sexual orientation, however less is known about supporting transgender people in employment. According to McLynn & Garnett (2001), “there appears to be a disturbing ignorance among employers about the legal protection of transsexuals and good equal opportunities practice”.

Often, most trans employees do not disclose their trans status to their managers or colleagues. Commonly, trans people tend to reveal this if and when they opt to undergo gender realignment. It was found that 42% of trans employees were reluctant to risk “coming out” as trans at work for fear of this affecting their employment status (Whittle et al. 2007).

A survey carried out by the Government in 2011 generated 1,275 responses. Findings revealed that:

- Almost half of transgender employees were subjected to discrimination or harassment in their workplace
- Around 88% of respondents felt that ‘ignorance of transgender issues was the biggest challenge they faced in employment’
- Respondents also noted that transitioning whilst in employment was a key trigger for discrimination
- Approximately two thirds of respondents experienced intimidation from colleagues

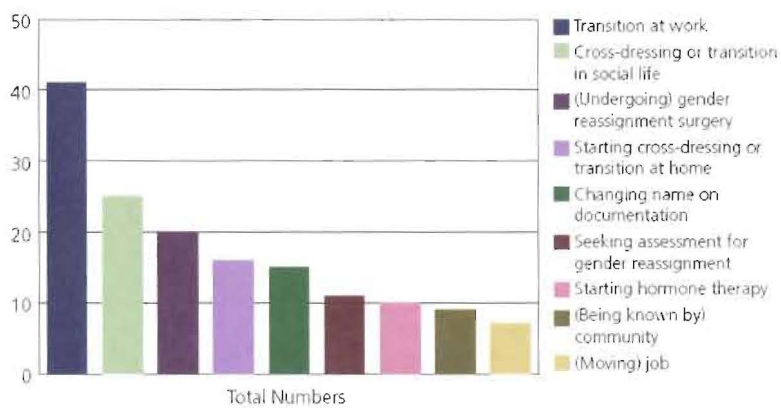
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threatening to reveal their gender identity without consent

**Source:** Home Office (2011)

This closely reflects the Department of Health’s (DoH 2008) findings. The DoH (2008) reported that people who identify themselves as transsexual or transgender are more likely to experience difficulty in finding work or even retaining their employment if their background is disclosed to work colleagues. Graph 1 shows the main trigger points for discrimination of trans people.

**Graph 1 Main trigger points for discrimination of trans people**

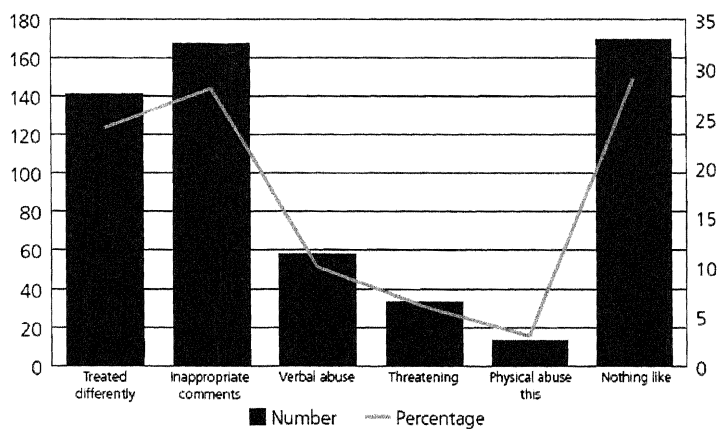


Source: Whittle et al. (2007), pg 26

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Graph 1 evidences transitioning at work as a key trigger for discrimination, with over 40 respondents stating that they had been subjected to bullying or harassment for disclosing their intent to transition. A high number of trans people also reported feeling obliged to change jobs as a direct result of workplace harassment and abuse (DoH 2008). When combined with intimidation from the public (outside the workplace), trans people become more prone to depression or suicide (DoH 2008). Whittle et al's (2007) research focusing on inequalities and experiences of trans people found that 34% of 872 respondents experienced suicidal thoughts (Whittle et al. 2007). Despite the presence of employment protection legislation, Whittle et al. (2007) found that many employers failed in their duty to protect trans workers from bullying and harassment. Graph 2 depicts types of responses that trans workers were subjected to by co-workers.

**Graph 2 – Respondents treatment by co-workers as a result of their acquired gender**



Source: Whittle et al. (2007), page 37

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Around 29% of respondents declared that they experienced inappropriate comments and approximately 25% of respondents also stated that they were treated differently in comparison to the rest of their co-workers. As a result, it can be deduced that many employers had been failing in their legal duty to protect trans workers living in their acquired gender from harassment (Whittle et al. 2007).

These findings support McLynn and Garnett's viewpoint of employers remaining ignorant to the legislation protecting transgender employees and also, being ignorant of good equal opportunities practices. Owing to these findings, this paper aims to examine the key issues involved in situations within the workplace when an employee goes through gender reassignment, in order to consider how such situations can be managed more effectively.

The researcher was motivated by carrying out this research after witnessing an employee (from one of previous organisations) 'coming out' as transgender. Although the organisation and the employee's colleagues were committed to supporting the member of staff, neither HR nor management were knowledgeable on how to deal with the transition process. Furthermore, the considerations of trans employees and applications would have implications on operational HR which previously had not been addressed before. The aim of this paper is to provide guidance for HR professionals and organisations on how to support trans employees whilst adhering to Best Practice and complying with the UK's Equality Act (2010).



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In order to do this, the researcher must first address the following key research questions:

3. What are the key challenges involved in the workplace when an employee undergoes gender realignment?
4. How can employees undergoing gender realignment be managed effectively whilst remaining compliant with the Equality Act (2010)?

The research questions are significant as they are directly linked to the objectives of this research paper. The research objectives are:

- To investigate what the key issues in the workplace are when an employee undergoes gender realignment
- To consider how employees undergoing gender realignment can be managed effectively to promote employee wellbeing and retention
- To provide cost-effective and realistic solutions in line with Best Practice for implementation by HR and line managers

The following chapter introduces the theories, models and concepts that are appropriate for gaining an understanding of the research context and provide an insight into the legal implications of the Equality Act (2010).

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### **3.0 Theoretical Framework & Literature Review**

This section considers any previous related studies that are appropriate to this paper as well as information on what legislation is in place to protect those who identify themselves as trans. Terminology and relevant social theories will be drawn upon to generate greater understanding of the research context. Overall, this section will enable the researcher to further comprehend the how social constructs and legislation impacts on trans employees and their employers.

#### **3.1 Part 1 – Literature Review**

##### **3.1.1 Understanding the Terminology and Labels**

It is thought that around 1 in every 11,500 people in the world are 'transgender' (DoH 2007). This term refers to people who feel that they belong to the opposite gender, rather than the one they are born into (DoH 2007). Within the UK, the expression 'transgender' is an umbrella term that has multiple meanings. Transgender people are generally those who cross gender boundaries whether this is permanently or temporarily (DoH 2007). As the words 'transsexual' and 'transgender' can have different definitions in other cultural contexts, it is considered that the phrase 'trans' is a more appropriate term to apply to this minority group (DoH 2007).

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It is important for employers and HR Practitioners to note that there can be sensitivity around the term 'transsexual' (DoH 2007). In the past, UK clinicians and psychiatrists were of the opinion that patients who expressed concerns about their gender identity were displaying traits rooted in theories relating to sexual deviancy and mental disorder (DoH 2007). For this reason, the term 'transsexual' has negative connotations and it is advisable not to use this to refer to trans people. It is vital to bear in mind that being trans is not a form of mental illness (DoH 2008).

Table 1 (page 15) provides a comprehensive list of transgender terminology.

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**Table 1 Transgender Terminology**

Term	Explanation
Sex	The categorisation of people as either male or female
Gender	The behavioural, cultural, psychological or social traits generally associated with a sex
Gender identity	A person’s psychological sense of gender – this may or may not match the person’s body or birth sex
Sexual orientation	A person’s emotional or physical attraction to another person
Transgender	Umbrella term describing people who express or experience their gender differently to societal or cultural norms
Transphobia	Irrational fear or hatred of people whose gender identity does not conform to societal or cultural norms
Transsexual	A person who has or is in the process of changing their physical sex to match their gender identity
Transvestite	A person who cross-dresses on a temporary basis
Gender realignment	The process whereby a person changes their physical characteristics to match their gender identity
<b>Gender dysphoria</b>	<b>Term used by clinicians to illustrate the condition that trans people present with</b>

*Source:* HRC (2008) – Transgender Inclusion in the Workplace (second edition)

The term ‘gender reassignment’ is interchangeable with ‘gender realignment’ however the adjective ‘realignment’ can be preferable since it refers to matching a person’s physical characteristics with their gender identity. It is advisable to note that trans people do not wish to change their sex but rather to align it to their psychological gender. The term ‘transvestite’ can have negative

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connotations and is considered to be a derogatory term when referred to in its shortened form, consequently the phrases are not used in this paper or interview questions.

DoH (2008) stress the importance of getting the gender terms correct. Mistakes involving to gender-related speech can be distressing for trans people (DoH 2008) in the same manner that a person from an ethnic minority would find it upsetting if they were referred to in a racially offensive term. Whittle et al. (2007) note that it is the “transphobic” response of society which results in trans people experiencing inequality of discrimination.

Moreover, gender-related speech is simple to get right (DoH 2008) and doing so, could minimise the likelihood of direct discrimination.

### **3.1.2 Gender**

One school of thought considers gender to be a social construct (Risman 2004, Hare-Mustin 1990). Other schools of thoughts interpret the concept of gender differently. For example, Lorber (1995) states that from a feminist psychoanalytical perspective, gender is embedded in the unconscious and manifests itself through sexuality. Of course a criticism of this is that trans peoples’ sexual orientations are not dictated by their gender identity. For instance, a male-to-female (MtF) trans person can be equally likely to be emotionally or physically attracted to females. Lober (1995) asserts that gender is a broad term which encompasses all social relations that divides people into differentiated gendered statuses. Despite males and females being similar, the institution of gender

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continues to maintain social differences between males and females (Hess 1990).

Hare-Mustin (1990) views gender as an invention of human societies. The writer continues that one aspect of gender concerns painstaking efforts to transform male and female children into adults who become masculine and feminine adults respectively (Hare-Mustin 1990). Another aspect of gender concerns the creation and maintenance of social arrangements which sustain distinctions in men and women's behaviours (Hare-Mustin 1990). Because these social arrangements are long accepted as social norms, this has resulted in a division of labour which is colloquially known as men or women's work.

Hare-Mustin (1990) continues that a final aspect of gender is creating the linguistic and conceptual structures that form and control our notion of what it means to be male or female. In other words, gender is a method of organising life (Hare-Mustin 1990). The outcome of debates about gender has a range of consequences (Hare-Mustin 1990). Definitions of gender also impact on social institutions such as the workplace, childcare and education (Hare-Mustin 1990). For instance, within NHS hospitals nursing staff are predominantly female due to society attributing caring characteristics as being a feminine trait. Similarly, at Board level males outnumber females – commonly business people and writers consider that this is due to a 'glass ceiling' forming an invisible barrier that prevents advancement of females in the workplace.

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### **3.1.3 Gender Dysphoria**

Gender dysphoria is a condition whereby a person feels that their gender identity does not match their biological sex (NHS Choices 2012). For instance, a person could have the anatomy of a female but have a gender identity of a man (NHS Choices 2012). A mismatch between the person's biological sex and their gender identity can lead to feelings of discomfort or distress – this is recognised as gender dysphoria. Generally the symptoms of gender dysphoria appear at a young age and are usually considered to be a childhood phase however in other cases it can persist through to adulthood (NHS Choices 2012).

A person's gender identity is forged in their brain. In the majority of cases, a person's gender identity will match their biological sex and that person's gender expression will conform to that dictated by society. Of course when there is a mismatch and a person is classed as having gender dysphoria, treatment is utilised to eliminate the feeling of the mismatch between the person's biological sex and their gender identity (NHS Choices 2012). For some trans people, treatment can be dressing and living as their preferred gender (NHS Choices 2012), allowing them to express their gender identity. For others, they may seek further treatment such as taking hormones or undergoing gender reassignment surgery to change their biological sex to gain a physical appearance matching their preferred gender (NHS Choices 2012, Batty 2004, DoH 2008).

The NHS estimates that 1 in 4000 people receive medical assistance for gender dysphoria however it is likely that there are significantly more people with the condition who have not sought help (NHS Choices 2012). It is thought that around 5000 people in the UK have had gender realignment surgery

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in 2004, with 4500 operations being MtF (Batty 2004). James Bellringer, surgeon at the Gender Identity Clinic at Charing Cross Hospital, saw numbers of referrals for surgery double to 1000 from 2000 to 2004 (Batty 2004). In 2003, the surgeon completed 70 operations in the year and expected to complete nearer 1000 in 2004 (Batty 2004). It is thought that while gender dysphoria is relatively uncommon, the numbers of people being diagnosed with it is very likely to rise as a result of increasing public awareness (NHS Choices 2012).

Interestingly, Mr Bellringer highlighted that in cases of trans females, studies found that a part of the brain resembled that of born women (Batty 2004). This matches NHS Choices' view that gender dysphoria could be attributed to biological causes linked to the development of gender identity before birth (NHS Choices 2012). However both concede that greater research is required before the causes of gender dysphoria can be understood fully. The next section considers how gender realignment can help those experiencing gender dysphoria.

### **3.1.4 Gender Realignment**

Many trans people choose to undergo gender realignment to configure their gender with the view of matching it to their gender identity. Gender realignment is process whereby a person changes their physical characteristics to match their gender identity (HRC 2008). The process can involve medical treatment in the form of hormone therapies and surgical procedures. It is important to note that not



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all trans people would want full surgical treatment or hormone therapy – each trans person is different and some may require minimal medical assistance.

### **3.1.5 Discrimination**

The severity and frequency of discrimination against trans people can vary. Whittle et al. (2007) found that trans men (female to male (FtM)) tend to experience issues with hostility and discrimination within the first 12 months of transitioning. Generally this can slowly disappear when trans men come to look physically masculine (Whittle et al. 2007). Then again the majority of trans women (male to female (MtF)) can experience hostility for a number of years as medical limitations can make it more difficult to pass as a woman. This leads to trans women being more likely to become victims of transphobia (Whittle et al. 2007).

Non-compliance with society's gender rules leaves trans people treated with contempt, harassment or even abuse. The period of gender transition can differ; a trans person utilising private healthcare can complete transition in a year (Whittle et al. 2007). On the other hand, a trans person undergoing transition on the NHS could wait between 6 to 10 years for gender realignment surgery (Whittle et al. 2007).

Interestingly, Whittle et al (2007) found that the main trigger point for discrimination or inequality was when trans people declared their intention to undergo transition in the workplace. Of course

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other trigger points include:

- When a trans person begins cross dressing publicly
- During periods of gender realignment surgery
- When a trans person's intention to transition to their preferred gender is discovered in their family home

Whittle et al. (2007), pg 14

The Equality Act (2010) came into place to prevent discrimination against people possessing 'protected characteristics'. The next section provides an outline of the Act and how it seeks to protect trans people from discrimination.

### **3.1.6 The Equality Act (2010)**

The UK legal system states that it is unlawful to discriminate against trans employees (ACAS 2012). ACAS (2012) advises that employers should make sure that they implement effective policies designed to prevent opportunities for discrimination in:

- Recruitment and selection
- Learning and development
- Pay

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- Disciplinaries and grievances
- Opportunities for promotion
- Bullying and harassment
- Taking time off work

**Source:** ACAS (2012)

Any trans person who intends to commence or complete gender realignment can expect to be protected under the Equality Act (2010). The Equality Act (2010) replaced previous anti-discrimination laws such as the Sex Discrimination Act and Race Relations Act to form one single act to make the law simpler to understand. The act covers a total of nine protected characteristics with the aim of ensuring that people cannot be unfairly treated on the basis of possessing one or more of those protected characteristics (Home Office 2012).

The protected characteristics are:

1. Gender realignment
2. Sexual orientation
3. Gender
4. Disability

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5. Race
6. Age
7. Religion or belief
8. Pregnancy and maternity
9. Marriage and civil partnership

**Source:** Home Office (2012)

It is important to note that an individual does not need to be undergoing surgical treatment in order to be protected (ACAS 2012). This aims to protect trans people who do not intend to gender realignment surgery but wish to dress and present themselves as their preferred gender. It is considered discriminatory for employers to treat trans people less favourably for absences due to their intention to undergo, receive or have undergone gender realignment treatment (ACAS 2012).

The Equality Act (2010) ensures protection for trans employees in the following areas:

- **Direct discrimination** – bullying, harassment and less favourable treatment due to being a trans employee
- **Indirect discrimination** – any policies, practices or processes which although applies to all employees, results in trans employees being disadvantaged. For example, organisations that do not make it clear about the CRB (Criminal Records Bureau) having a confidential checking procedure to protect the privacy of trans employees or applicants, could potentially force a

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trans person to disclose their birth gender

- **Harassment** – Unwanted behaviour from colleagues or managers against a person identifying themselves as being trans, with the intention or effect of undermining the person's dignity or creating a degrading or intimidating work environment
- **Victimisation** – any unfair treatment of a person who lodges or supports a complaint

More significantly the Equality Act (2010) also offers protection against new categories of discrimination: discrimination by association, discrimination by perception and harassment by third party. These categories protect against all forms of discrimination against people who possess one or more of the nine protected characteristics. Discrimination by association refers to direct discrimination against a person because they unite with or have an affiliation with for example, a trans person (ACAS 2012).

Discrimination by perception concerns direct discrimination against a person who is considered to be trans or possess other protected characteristics. Lastly, harassment by a third party could be direct discrimination against a trans person by an individual who is not directly employed by the trans person's employer. For instance, this could be abusive or intimidating behaviour by an organisation's contractor or a customer, against a trans employee of the organisation. Consequently, employers can potentially be held liable if a trans employee experiences direct discrimination from a contractor or customer and there is a failure to take adequate action.

The following section gives an insight into an employment tribunal involving a former trans

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employee who took her previous employer to tribunal due to their discriminatory behaviour.

### **3.1.7 Case Law: Employment Tribunals**

A number of employment tribunals have come about as a result of trans people taking employers to court over discriminating behaviour. *X v Brighton & Hove City Council* (2006/07) was a notable case about discrimination and victimisation of a trans ex-employee (EHRC 2012). The case was heard at Brighton Employment Tribunal and supported by the EOC (Equal Opportunities Commission). The case came about after the ex-employee (teacher) had registered with a recruitment agency and required a reference from her previous manager at the council. The ex-employee also requested her previous employers not to disclose her change of gender to the recruitment agency. After an initial delay in providing a reference, the previous manager submitted the reference request with an additional secret memo disclosing the ex-employee's former name, previous gender and continuously referred to her as 'he or she' (EHRC 2012).

Moreover, the previous employer also revealed that she previously raised an allegation of discrimination against the council and offered to have further conversations with the agency staff regarding the ex-employee (EHRC 2012). After 2 years of unemployment, the ex-employee contacted the previous manager to request another reference, which was refused. The tribunal had concluded that the council and previous manager's behaviour amounted to discrimination and victimisation by refusal of the reference request and refusal to hear the ex-employees grievance resulting from having her reference request rejected (EHRC 2012). The council were also seen to

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have failed to implement existing CRB (Criminal Records Bureau) procedures for trans people (EHRC 2012).

As a result of the findings, Brighton Employment Tribunal ordered the council to pay the ex-employee £34,765 in compensation for loss of earnings and hurt feelings (EHRC 2012). Currently, trans workers are a minority group and are the least represented in the UK workforce. As such, very few organisations are experienced enough or knowledgeable in how to support this minority group. The next section looks at research currently undertaken into trans workers experiences in the workplace.

### **3.1.8 Employment**

According to EC (2012), research into the employment rates of trans people reveals high rates of unemployment or underemployment (i.e. unable to secure full time/permanent positions). A study by Whittle (2000) showed that 31% of trans people were in full time employment in the UK. Broken down, 40% of full time trans workers were trans women and 36% were trans men. Schilt & Wiswall (2008) undertook research into the pre and post transitional experiences of trans workers to explore factors that led to disparities when compared with the majority of employees. Although the researchers conducted their study in America, the implications are valid to trans people in the UK. The researchers found that whilst trans people have the same human capital after their gender

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realignment, their workplace experiences can alter significantly before and after transition (Schilt & Wiswall 2008). Schilt & Wiswall (2008)'s investigations also revealed that for post-operative trans workers:

- Trans women incurred a loss of authority, pay and increased likelihood of their employment being terminated
- On the other hand, trans men benefited from gaining more authority, financial reward, respect from colleagues as well as career development opportunities (if they possessed an undisputable male appearance)

Of course, this shows that post-operative trans workers will experience a difference in earnings due to the gap in gender related pay, thus impacting on their human capital. Schilt & Wiswall (2008) found evidence to suggest that average earning for trans females fell by nearly a third, whilst trans men saw their pay increase, albeit slightly. Studies showed that pre-operative trans men were likely to work in male dominated professions such as engineering or gender neutral fields (e.g. retail) (Schilt & Wiswall 2008). In contrast, pre-operative females worked in female dominated fields such as secretarial or hairdressing roles (Schilt & Wiswall 2008). It was also found that trans women who previously worked in professional roles (executives) as men, were encouraged by their employers to move into more 'feminine' roles (secretaries) that were considered more appropriate for their new gender, after transition (Schilt & Wiswall 2008).

Whittle et al. (2007) state that although being in employment is an important part of the transition process, around 42% of pre-operative trans people feared living permanently in their preferred



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gender – the reason for this being that they do not wish to jeopardise their employment status. It appears that trans peoples' fears have validity as Whittle et al. (2007)'s research found that:

- Approximately 1 in 4 people were made to use an inappropriate toilet or none at all
- More than 10% were subjected to verbal abuse
- Around 6% were subjected to physical abuse

As a result of bullying and harassment in the workplace, a quarter of trans people feel an obligation to change their jobs (Whittle et al. 2007). With regards to employment retention, Whittle (2000) discovered that many trans people who changed employers were since undertaking lower paid work after transition. Earlier studies by Whittle (2000) suggested that the retention of employment and maintaining good relationships with colleagues were not solely an employer's responsibility, but that of the trans worker too.

In 2000, Whittle conducted a survey of 208 trans people (201 whom were living permanently in their acquired gender) about their experiences of undergoing transition whilst in employment. When asking respondents whom they reported their intention to transition at work and how much notice they gave prior to transitioning, Whittle (2000) found that:

- 44% reported their intention to transition to their immediate line manager
- 26% reported their intention to a senior manager

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- Around 25% informed a senior member of their HR department

**Source:** Whittle (2000) pg 9

The vast majority (99%) of respondents informed their employer on a person to person basis (Whittle 2000). Whittle (2000) found that 81% of employers responded to the trans workers intention to transition to their colleagues in a supportive or objective manner and 15% reported to colleagues in a supportive and objective manner.

On a superficial level this appears to be reassuring however around 1 in 5 employers were found to have reported a trans worker's intention to transition or come into work in their preferred gender, in a negative way to their co-workers (Whittle 2000). The implication of this is being a higher risk of the trans worker experiencing bullying and harassment due to the failure of the employer to facilitate a supportive work environment. A common area of contention that arises in the workplace is whether to allow a trans worker to use the toilet of the appropriate gender. Only half of respondents stated that they had been allowed to use gender appropriate toilets at the time of their transition (Whittle 2000) even with the knowledge of the trans worker undertaking their real life experience. Prohibiting the use of a gender appropriate toilet or expecting the trans worker to use the 'disabled' toilets undermines the real life experience as the trans person would be living as their preferred gender but having to use their former toilet facility.

More significantly also only 76% of respondents were permitted to use gender appropriate toilets

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after transitioning (Whittle 2000). The significance of being permitted to use the correct toilet for a trans person's preferred gender is that it provides acceptance and allows the person to pass as somebody of their preferred gender. Forbidding this can lead to the trans person feeling humiliated and stigmatised. So far, the research has generally considered trans workers as one entity rather than distinguishing between males and females. The next section looks at the differences in work experiences between trans men and trans women to consider if employers need to be aware of concerns that affect one gender more than the other.

### **3.1.9 Work Experiences of Trans Men & Trans Women – Disparities or Similarities**

Schilt & Wiswall (2008)'s study found evidence to suggest that trans women experienced greater hardships in the workplace than trans men. The researchers requested their sample of trans men to offer comments on their experiences in the workplace during their gender realignment. Although only a small percentage offered comments, all respondents stated that their transitions proceeded without hardship. One respondent commented that they felt better accepted as a trans man as previously their colleagues no longer viewed them with scepticism when they were previously a female in a lesbian relationship (Schilt & Wiswall 2008). Interestingly, studies undertaken by Schilt (2006) revealed that trans men of black minority ethnic groups, short stature and young age could

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be constrained from the advantages conventionally afforded to men, such as increased authority, more respect from colleagues and prestige.

On the other hand, the trans women respondents declared that they had suffered difficulties in the workplace during their transition (Schilt & Wiswall 2008). One respondent who had been employed in their organisation for over twenty years stated that hostile notes would be left on her desk demanding that she left her post (Schilt & Wiswall 2008). Another disclosed that her employment had been terminated during the first week that she had been going into work dressed in women's clothing (Schilt & Wiswall 2008). Although only a small sample of trans women openly discussed their experiences of transitioning whilst in employment, this seemed to suggest that trans women tend to face greater hostility than trans men.

Culturally, society allows women to wear similar clothes to men (i.e. trousers) without ridicule or suspicion however the same is not true for men or trans women who wish to wear dresses or other feminine attire. As trans women tend to be taller, have clear masculine features and are more built than natal women, it is even more difficult for them to pass as females. Schilt (2006) found that trans women experienced a wider range of setbacks to openly transitioning and remaining in the same job than trans men. This was particularly true for trans women working in blue collar occupations (Schilt & Wiswall 2008). Often, blue collar occupations involve manufacturing, construction or maintenance work. As these roles can often require physical efforts, these types of jobs are usually undertaken by men; Welsh (1999) views this type of environment being associated with homophobia and sexism. When undertaking an analysis of tribunal cases brought against employers from 1977 to 2005, Schilt (2006) found that more trans women were subjected to

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bullying and harassment or dismissed from their roles, than trans men.

This can cause significant distress particularly as prior to transitioning, the majority of trans women had previously been welcomed into the male dominated work environment. The implication of this is that whilst trans women might conform to the organisational culture, there is a higher risk of discrimination and increased threat of dismissal if they choose to transition. After transitioning in a blue collar occupation, a trans woman can find that their human capital stagnates or diminishes even though their skills and abilities remain the same (Schilt & Wiswall 2008). The increased threat of dismissal, unemployment and harassment then forces trans women to delay their gender realignment or carrying out the real life experience required for receiving surgical treatment.

When considering the workplace experiences of trans people before and after their gender realignment, it is important to consider the significance of the individual's appearance. As trans people can undergo many changes to their physical appearance, Schilt & Wiswall (2008) believe that there may be some who are affected by an appearance that does not easily pass as that of the individual's preferred gender.

When speaking to a trans person on an informal basis, they informed the researcher that trans women were more likely to experience hostility as it was more difficult for them to pass as women, thus supporting Schilt & Wiswall (2008)'s argument. Overall it can be seen that research into trans peoples' workplace experiences highlights frequent issues of discrimination by managers and colleagues, sexuality identity management and perceptions of changed workplace climate. The next section considers the use of the LGBT Climate Inventory model to establish whether levels of

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discrimination (perceived or otherwise) and workplace climate are measurable.

### **3.2 Part 2: Theoretical Framework**

Many societies in the West operate on a simplistic ideology of two biologically defined genders to whom different gender roles and behaviours are expected – this is known as the binary gender model (EC 2012). When an individual (i.e. trans person) does not fit the binary gender model, they are more inclined to encounter discrimination (EC 2012). The binary gender model regards gender and sex as two distinct and unrelated forms of masculine or feminine identities (EC 2012). Research by the European Commission (EC) highlights that negative attitudes towards trans people directly correlate to the importance that society places on the gender identity model and the extent of gender stereotypes, sexism and gender inequalities (EC 2012).

Furthermore the model appears to favour individuals who are at ease in the biological gender assigned to them at birth, through various institutions (EC 2012). For instance, society expects young males to pursue interests in sports, behave competitively and be emotionally resilient. Deviating away from the notion of masculinity can often result in ridicule or hostility. As stated by EC (2012), the societal norm marginalises those whose sex, gender identity and gender expression does not fit society's expectations (EC 2012). Gender stereotyping plays a significant part in marginalising trans people and consequently this leads to institutionalised discrimination (EC 2012).

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According to EC (2012), another result of the binary gender model is that trans peoples' bodies can become medicalised as they do not fit the inflexible norm established by the binary model. EC (2012)'s research continues, stating that trans people have little say over their bodies and the treatments available to them tend to be based on social expectations. For instance, society would expect a trans person to complete full gender realignment regardless of whether it fits the trans person's wishes.

Additionally trans people would also be required to go through social and legal adjustments that would not be expected in a society that was not based on the binary gender model (EC 2012). Examples include 'coming out' and participating in a real life experience – in order to qualify for medical treatment, trans people are required to dress and live as a member of their preferred gender for up to two years. Society expects trans people to meet these requirements before an individual can be recognised as belonging to their preferred gender (EC 2012). EC (2012) note that changing a trans person's name and/or gender on legal documents can only be undertaken once an individual's gender realignment is irreversible or complete. This can discriminate against trans people who do not wish to undergo surgical or medical treatment, denying them the same rights afforded to those who have.

Literature currently shows that there are three predominant aspects which affect a trans employee's experience in the workplace (Brewster et al. 2012). There are a small number of models available to analyse and measure the extent of discrimination against lesbian, gay, bisexual and trans people. Brewster et al. (2012) note that there are three key issues which can discourage trans people (or

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lesbian, gay and bisexual people) from “coming out” at work:

1. Perceived discrimination
2. Perceived workplace climate
3. Sexual identity management

These aspects can be analysed using the Workplace Heterosexist Experiences Questionnaire (WHEQ), Workplace Sexual Identity Management Model (WSIMM) and LGBTCI (Lesbian, Gay, Bisexual and Transgender Climate Inventory). The LGBTCI model offers a relevant theoretical framework for analysis. Although the WHEQ and WSIMM models have their merits, the theories focus predominantly on measuring sexual orientation, which is more relevant to gay, lesbian and bisexual employees in the workplace rather than trans employees.

### **3.1.1 Lesbian, Gay, Bisexual and Transgender Climate Inventory**

Workplace climate can be defined as the formal and informal organisational characteristics which contribute towards employee welfare (Liddle et al. 2004). Workplace climates for those who are lesbian, gay, bisexual or trans can range from actively supportive to extremely hostile (Liddle et al. 2004). The significance of the workplace climate is that it directly affects recruitment, productivity, stress and retention (Liddle et al. 2004). Liddle et al. (2004) emphasise that business psychologists



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have become increasingly aware of the link between workplace environmental factors and employee wellbeing, job satisfaction, productivity and retention.

The ability to measure the workplace climate is beneficial as it provides management and HR Practitioners with the intelligence required to facilitate an optimal work environment. As demonstrated in the literature review, trans people are more likely to face (direct or indirect) discrimination in the workplace on the basis of their gender identity or expression.

For instance, organisational policies can indirectly discriminate by requiring an individual to inadvertently disclose their gender through the use of CRB checks during recruitment. Such policies may only change in reaction to a current employee declaring their intention to undergo gender realignment. This can be attributed to the lack of awareness and understanding of trans issues in addition to the fact that trans people have usually been in the very small minority.

Referring back to the notion that the workplace climate towards LGBT people can vary, this creates a need for a tool to measure where an organisation is on the continuum (Liddle et al. 2004). Although there is very little literature investigating the effects of an organisation's climate for LGBT individuals, there are a number of theories about the effects of workplace climates in general (Liddle et al. 2004). Examples include the Hawthorne Experiments which highlighted that improvements in the work environment helped improve employee motivation and productivity.

The LGBTCI is comprised of an open-ended questionnaire which is designed to assess the experiences of LGBT individuals and ascertain the workplace climate. In turn, this allows for analysis of LGBT individuals' experiences. Appendix 1, page 90 provides an example of the questions utilised

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by Liddle et al. (2004) in the LGBTCI.

#### **4.1 Research Design**

This chapter provides a synopsis on how the research was undertaken; including the theoretical and philosophical assumptions upon which research was based and the implications of these for the method or methods adopted' (Saunders et al. 2003, p481). Adopting a clear research strategy facilitated the researcher with the ability to answer the research questions and achieve the objectives set out for this paper (Saunders et al. 2003). The use of a robust research design provided a blueprint for fulfilling the research objectives and allowed the researcher to answer the research questions more effectively (Cooper & Schindler 2006).

The creation of an effective research design helped guide the researcher through the data collection, analysis and interpretation thus help clarifying the research questions by the end of the research process (Cooper & Schindler 2006). Generally there are three prime categories of research design – exploratory, descriptive and causal or explanatory (Cooper & Schindler 2006, Jankowicz 2005, Saunders et al. 2003). Exploratory studies typically have flexible structures with the intention of discovering future research tasks (Cooper & Schindler 2006). The main purpose of exploration is commonly used to develop hypotheses or questions for further research (Cooper & Schindler 2006). Exploration is mostly beneficial when a researcher does not have clear idea of the complications

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they may encounter during the research project (Cooper & Schindler 2006).

A criticism of adopting this approach is that some academics may not regard an exploratory research design as academically rigorous at postgraduate level. On the other hand, as such little information is available on this research topic (at practitioner and academic level), an exploratory approach can be valuable for the purposes of increasing knowledge and understanding. According to Cooper & Schindler (2006), all studies have elements of exploration and there are very few studies that are completely uncharted – however research focusing on trans people in the workplace is limited. Consequently, this project lends itself more to an exploratory study.

In contrast, descriptive studies are more strict and structured with clearly stated hypotheses or investigative questions (Cooper & Schindler 2006). This approach provides an account of existing phenomenon and defines the characteristics of the significant issue of the research topic (Cooper & Schindler 2006). This type of study may be simple or complex, however it can be as demanding of research skills (Cooper & Schindler 2006). Again, as with exploratory studies, critics may consider this research design as being appropriate for undergraduate level research as it mainly involves gathering data on variables such as size, form or even the existence of a variable (Cooper & Schindler 2006).

Due to the nature of the research topic, questions and objectives, the researcher implemented an exploratory research design, although rudiments of a descriptive study was used to investigate the legislative aspects of the topic. Although all research design types have their merits, some are more suitable for particular types of research topics. As the aim of this paper was to examine the key

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issues involved in the workplace when an employee goes through gender reassignment to consider how such situations can be managed more effectively, an exploratory study complemented this project more effectively than explanatory or descriptive studies, hence the rationale for adopting this research design.

#### **4.1.1 Research Methods**

In this paper, research methods are defined as ‘a systemic and orderly approach taken towards the collection and analysis of data, enabling information to be obtained from that data’ (Jankowicz 2005). A number of research methods were available for use and the researcher’s choice of method was determined by:

- The nature of the research project
- Data sources to be used
- Purposes of data collection
- Extent of control applied in obtaining data
- The assumptions made during the investigation

**Source:** Jankowicz (2005)

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There are two main research methods for use:

1. Positivist approach
2. Phenomenological approach

**Source:** Saunders et al. (2003)

A positivist approach is a systematic method where significant emphasis is on an extremely structured methodology to allow a hypothesis formed from theory to be tested. This complements quantitative data used for statistical analysis. The advantage of using this approach is that the results can be utilised to confirm or refute the theory being tested.

The phenomenological approach provides meticulous insight into a phenomenon as it conclusions based on investigation and qualitative data. The key benefit of this is that it enabled the investigation to lead the research project and thereby generate in depth understanding of the said phenomenon.

This paper predominantly used qualitative data as the author was investigating for deeper understanding into the 'phenomenon' of supporting trans employees through gender realignment. Consequently the author adopted a phenomenological research method in order to maximise knowledge of the key issues involved in situations within the workplace when an employee goes through gender reassignment, in order to consider how such situations can be managed more

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effectively.

## **4.2 Methodology**

Methodology is a theory of how research ought to be undertaken, not to mention the theoretical and philosophical assumptions that the research is based on and the implications of these for the methods adopted (Saunders et al. 2003).

### **4.2.1 Inductive or Deductive Approach**

Depending on how clear a researcher is about the theory at the beginning of the research, this has implications on the design of the research project (Saunders et al. 2003). The main research approaches are the inductive or deductive approach. If a research topic of choice has been widely studied, a deductive approach would be more appropriate than the inductive approach as it permits the replication of previous studies (Saunders et al. 2003). Additionally a researcher is able to develop a theory or hypothesis and embark on data collection for the intention of testing to establish whether they agree or disagree with previous studies. From a critical perspective this approach is extremely controlled thus discouraging flexibility to allow changes of research emphasis (Saunders et al. 2003). Due to its scientific principles, it doesn't allow researchers to gain an understanding of the research context or for instance, the feelings experienced by people going through organisational restructure.

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An inductive approach permits data to be collected first and then utilised to form a theory (Saunders et al. 2003). With this approach, the researcher forms a conclusion on one or more pieces of facts or evidence (Cooper & Schindler 2006). The benefits of inductive research are that it allows for greater understanding of a research context (particularly in this research context) and therefore highlights the need for collecting qualitative data (Saunders et al. 2003). This approach is complementary to a flexible structure as the research progresses and there is reduced concern for generalisations (Saunders et al. 2003). Instead this can be a time-consuming and somewhat hazardous strategy as the researcher may not find the emergence of a theory or hypothesis (Saunders et al. 2003).

In this paper, the researcher chose to utilise an inductive approach as the research questions and objectives required greater understanding of the social issues experienced by trans workers. The lack of current studies also mean that theory is yet to be developed therefore the researcher did not have a theory which can be hypothesised and tested. Furthermore, human beings are complex therefore use of a deductive approach would have hindered understanding by not allowing the researcher to gain greater insight into the participants' experiences.

#### **4.2.2 Qualitative, Quantitative and Mixed Methods**

Qualitative data relates to data that is not quantifiable (Saunders et al. 2003). This data type is more subjective and concerns reflecting on a phenomenon i.e. a trans worker's experiences of undergoing

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gender realignment whilst in employment. On the other hand, quantitative data is objective and measures the phenomenon such as looking into how many tribunal cases there have been as a result of trans workers taking employers to tribunal over discrimination. A researcher can gain qualitative data by use of case studies or interviews whereas quantitative data can be obtained via questionnaires. The use of qualitative and quantitative data is acceptable as it covers all purposes within a study, therefore enabling a researcher to gain a greater understanding of the research context and consecutively, answer the research questions (Saunders et al. 2003).

As this paper aims to promote understanding of key issues experienced by trans people undergoing gender realignment whilst in employment, the researcher predominantly used qualitative data in this paper.

#### **4.2.3 Case Study**

The researcher will use primary and secondary data already available in the public domain. Use of a case study will provide the necessary data required for answering the research questions and meeting the research objectives. A case study strategy can be advantageous as it allows for greater understanding of the issues faced by trans people in the workplace. Another key advantage is that it provides an opportunity to answer research questions that are of an inductive nature, such as the “what” and “how” questions (Saunders et al. 2003).

Although there are other forms of research strategies with many merits (experiments, action surveys



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and longitudinal studies), a case study strategy complements this paper due to its aim of gaining a richer understanding of the research context.

#### **4.2.4 Sources of Information**

Cooper & Schindler (2006) identify three levels of data; primary, secondary and tertiary. Primary sources relate to original works of data or raw data free from manipulation (Cooper & Schindler 2006). For instance, this could be the interview notes taken from a meeting with a research participant or the information provided by questionnaires. Secondary data tend to be interpretations of primary data i.e. reports, textbooks and newspaper articles (Cooper & Schindler 2006). Tertiary data refers to interpretations of secondary data, such as bibliographies (Cooper & Schindler 2006).

All three levels of data can differ in value, for instance primary data sources are considered more valuable as they are free from manipulation and bias. In turn, secondary data sources possess greater value than tertiary sources. It is important to note that the reliability and validity of data can vary greatly. To maximise the reliability and validity of data, the researcher will ensure that the data sources used are up-to-date, peer reviewed (in the case of academic journals) and published by reputable sources free from bias.

In this paper, primary data will be collated from two trans participants; one of whom transitioned whilst employed at a higher education institution and another who advises organisations on

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supporting trans workers. Due to the sensitive nature of the topic, it was considered appropriate to seek the views of participants who had completed their transition and left the organisation <sup>by</sup> were they worked during their transition. This was to enable them to discuss their experiences freely without fear of consequences that may have arose if interviewing somebody who still worked with the organisation they were employed with before, during and after transition.

The use of such a small sample size can lead to over-generalisation, therefore relevant secondary data sources relating to trans employees undergoing gender realignment however these will be drawn upon to gain a more accurate perspective of trans issues. For instance, there are a small number of case studies and official government publications relevant to this paper so these have been utilised.

#### **4.2.5 Expected Outcome**

The focus of this research paper was to generate answers to the research questions and fulfil the objectives of the research. The researcher aimed to investigate the issues that trans employees experience and consider how situations could be managed more effectively. The researcher hoped that by the end of the study, they would be able to offer recommendations that adhere to Best Practice and comply with UK legislation. If conducted successfully, the research can offer valuable insight and solutions for employers and HR Practitioners.

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#### **4.2.6 Negotiating Access**

Negotiating access is critical if needing to gain entry into an organisation or arranging a meeting with a participant. In this research context, most participants would not be willing to grant access due to the sensitive nature of gender realignment. Furthermore, employers may not wish to grant access due to the impact it may have on their reputation. In order to gain access the researcher was required to establish their credibility with the two key informants by writing to them and providing sound reasoning regarding why their input was requested and how their data will be used and protected. If entry into an organisation or meeting with a participant is not required then negotiating access is less problematic.

In this paper, the research questions required the use of one in depth interview with a primary participant and an extended questionnaire with another trans individual. The main strategy for gaining permission to interview and question the key informant who works as a consultant on trans issues, was to provide them with details of why the research is being carried out, how their participation would contribute to the study and how their data would be used and protected. Negotiating access to the second key informant was gained via introduction from the researcher's Head of Equality & Diversity. Due to the sensitive nature of the research topic, this choice of method was advantageous as it allowed the key informant to have verification of the researcher's credentials. Speculative enquiries are likely to be unsuccessful hence the adoption of such methods.

Access to secondary data was less challenging however issues such as lack of internet access, library membership (to obtain literature) or illness could have potentially prevented access. The researcher

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would not have been able to resolve the potential issue of illness however issues concerning internet access could have been overcome by utilising the researcher's computer at work (after hours).

The University of Bedfordshire and local libraries were in close vicinity to the researcher's residence and the researcher could potentially have borrowed literature if required however very little literature relating to trans issues and the workplace were available, despite running courses which cover equality and diversity (i.e. HR, Management Practice and Law), highlighting how under-researched this area is. Prior to commencing this paper, the researcher had already negotiated access to interview(s) with a trans person.

#### **4.2.7 Research Ethics**

Research ethics are critical to all research studies as well as this paper. According to Saunders et al. (2003), ethical concerns will emerge as the researcher plans data collection, analysis and reporting. As a result, it is advisable to address these concerns. A code of ethics would provide instruction on how to conduct the research and ensure that the researcher does not contravene the regulations set out by the University of Bedfordshire. The researcher had previously submitted their research proposal and ethics form (on a number of occasions) to the University of Bedfordshire Ethics Board and had provided details on ethical considerations on protecting the participant and how data would be managed according to the Data Protection Act.

It is thought that ethical issues could impact on the various stages of the research process (Saunders

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et al. 2003). An advisable approach would be to anticipate and manage ethical issues at the design stage of the research paper (Saunders et al. 2003). A critical stage where researchers must ascertain the possibility ethical issues arising is when they seek initial access. The researcher was mindful of not applying pressure on the intended participants as individuals have a right to refuse participation in the study. Maintaining the privacy of the participants was equally important. Since they would potentially be disclosing sensitive data, the participants' person identifiable data was kept anonymous for ethical reasons and also to comply with University regulations.

The participants were provided with written guidance on the research aims, how their participation will benefit the study and what measures would be undertaken to assure that their data is not misused. A consent form (appendix 2, page 91) was also been provided for completion which outlines how the data is intended to be obtained as well as advising on the rights of the participant. For good practice, the researcher chose not ask questions of an intimate nature (i.e. lower body surgery) nor expect the participants to answer questions that they did not wish to give a response to. These details had also been conveyed to the participant in writing (appendix 3, page 92). The interview questions were generated in accordance with the issues raised in the literature review that the researcher wishes to investigate further as part of the research questions and objectives. The interview protocol can be viewed in appendix 4, page 93-97.

The data collection stage can bring with it a number of ethical issues; these can be general issues that will apply to whichever method is used to collect data (Saunders et al. 2003). Other issues may be concerned with the data collection methods. During data collection, the researcher must guarantee that data is collected accurately and entirely to avoid subjective selectivity (Saunders et

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al. 2003). Maintaining objectivity can reduce the manipulation of data, thus diminishing the threat to the validity and reliability of results.

Should data not be collected objectively, the researcher's ability to analyse and report on the findings accurately would have been undermined – in turn, this could have lowered the credibility of the study. Creating data to integrate with the researcher's views or research questions is also unethical therefore this paper has strived to avoid this act.

#### **4.2.8 Limitations & Likely Barriers**

The major limitations and barriers to this study was time – be it for completing this paper within a given timescale and for meeting with the participant to obtain the required primary data. As the researcher was in full time employment and the participant was externally sourced, arranging an appropriate interview time, date and suitable location was problematic. Should a suitable time and location not have been sourced within sufficient timescales, the researcher would have considered overcoming this barrier by conducting the interview via telephone or even adopting an extended questionnaire that the participant could complete independently.

Another significant limitation is the use of two participants. As the nature of the topic is highly sensitive, the researcher's sample size was anticipated to be extremely low prior to embarking on the study. The use of two participants leads to generalisation which of course, may not be true for the entire trans population in the UK. However this project aims to provide the foundation for

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further research in future therefore the use of two participants is considered appropriate for this study. The next section details the findings and results of the primary and secondary research.

### **5.1 Primary Research Results**

This section considers the experiences of two key informants; pseudonyms have been utilised to ensure confidentiality. Obtaining a large sample size proved to be difficult for the researcher due to the sensitivity of the research topic; also some trans people may wish to live in a 'stealth' manner, i.e. not wishing to disclose their trans status for fear of negative repercussions. This can also be a factor explaining why the area is lacking in research.

The first case study offers a succinct account of the experiences of Bella who 'came out' as trans whilst employed with an LGBT advisory group. The second case study details the experiences of Louise, a highly educated professional whose transition whilst in employment had been poorly managed. The researcher contacted Bella after her advisory group had been recommended by a senior HR colleague who had attended an annual conference run by her organisation. As Bella had significant work commitments she was unable to provide an in-depth interview however still contributed by responding to an extended questionnaire.

Louise was contacted after initially being introduced by the researcher's organisation's Head of Equality & Diversity. This gave Louise the opportunity to establish the researcher's credentials prior to giving their consent to participate.

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## **5.2 Key Informant: Bella**

Bella is a MtF trans individual who had been employed as an Advisor at an LGBT advisory group. She stated that she commenced employment with the organisation in 2008 to support other trans people.

### **5.2.1 Background**

Bella recalled first becoming aware that she felt 'different' at the age of 6 years old. She mentions that it was only until she entered puberty that she began to feel unhappy in her biological gender. Bella said she never confided in her friends and family for fear of being sent to a mental health facility – supporting evidence in the literature review revealing that gender identity issues were considered to be rooted in mental health issues (DoH 2007). Both Louise and Bella are of a similar age and similarly, the lack of awareness of gender dysphoria and gender identity prevented Bella from seeking help. Bella reflected:

*"I was 27 [years old] when I first asked for help, though back in 1982 there was little understanding about transsexuals and this was the first time I contemplated suicide as the help I wanted was little or no use. Back then I felt like a lab rat".*

**Source:** "Bella"



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She stated that these feelings eventually culminated in her suffering a nervous breakdown. Moreover, Bella said she turned to drinking due to being unable to resolve her gender identity issues. She mentioned that after 20 years, she was finally able to access help however it would be a further 18 months before gaining an appointment with the GIC. According to Bella, her GP was not very helpful and she was required to change GPs.

### **5.2.2 Employment**

Bella stated that she had not been in employment during the early stages of transition although she had been unsuccessful at interviews. It is advisable to note that there was no evidence to attribute this to Bella's trans status. She eventually gained employment eight years after seeking medical assistance at the LGBT organisation.

Beth recalled that she had no fear about informing her fellow colleagues about her trans status as they had only ever known her as a female. Of course being employed by an LGBT organisation implied that the workplace climate would have allowed her to 'come out' without fear of intimidation. Bella stated that she 'came out' to her colleagues during a team meeting and gained a positive response. Her colleagues treated her in the same way as before Bella's announcement, demonstrating full acceptance. Furthermore she recalls the response from her customers had also been positive, with no discriminatory behaviour or acts occurring throughout her employment.

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Interestingly Bella notes that the organisation did not have any policies or guidelines in place to support trans members of staff, therefore she was offered the opportunity to form a trans policy based on her own experiences and insight.

Additionally she notes that there were no operational issues as she had always been able to utilise the ladies toilets, have gender appropriate email addresses and HR records. Bella also recalled that her CRB check had been conducted sensitively too, which usually can be problematic for trans individuals who have never disclosed their former biological gender to their employers. Bella concluded by advising that organisations should implement a trans policy as well as a bullying and harassment policy to help support trans people whether they transitioned in the workplace or not.

### **5.3 Key Informant: “Louise”**

Louise is a MtF trans individual who had been employed as a Lecturer at a large Higher Education Institution. She commenced employment with the organisation in 1990 as a male and transitioned at the age of 50.

#### **5.3.1 Background**

Louise recalled having a feeling that she was ‘different’ during her time at Primary school, stating *“There are things that you do, and things you say and ways of being that other people notice....you say things quite naturally and you discover that other people don’t like you very much. They think I’m*

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*odd*". She stated that she had always preferred to play with girls and that she was very quiet and studious at school. These were characteristics that were atypical of boys of her age. Of course as Louise was studying at a boys' school, she remembered that this difference was singled out by the pupils and teachers alike, reflecting *"...as far as they were concerned, I was a bit 'girly'"*. Louise mentioned that she suffered verbal abuse from both the pupils and teachers; she also revealed that in some respects, the teachers were as bad as the boys.

Louise acknowledged that as issues of gender dysphoria and 'transgenderism' were rarely known during her childhood, it took many years before she was able to fully comprehend the feelings of being at unease – *"...there were various things like [I] preferred playing with the girls and stuff like that and then it started to become clearer when I was going through puberty. But even then it wasn't that clear because it just wasn't a feature in those days...there was nothing around about it, nothing at all"*.

### **5.3.2 Understanding the Decision to Transition**

Understanding a person's decision to transition is crucial. Lack of understanding can prevent management and HR practitioners from appreciating the implications of transitioning. In turn, this leads to lack of appropriate support for the individual. This section considers why Louise and other trans people 'come out' and why they often wait many years to do so.

The lack of knowledge and awareness of gender dysphoria during Louise's childhood and teenage

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years offers a logical explanation of her teachers' behaviour. The proceeding decades have seen implementation of legislation to protect minorities from discrimination, to the point where gay, lesbian and bisexual people no longer have the same fear of 'coming out' today in comparison to the past. Consequently this resulted in a change of social paradigm, one offering greater acceptance of people regardless of their sexual orientation. Although trans people are still very much a smaller minority group, the literature shows that legislation has been in place to offer them similar protection, therefore one would assume that Louise would feel able to 'come out', knowing that the law would protect her.

Typically, trans people can potentially wait decades before embarking on transition; this is usually due to a number of factors such as concerns about discrimination from the workplace, reactions of friends and family as well as societal pressures to maintain the status quo. Louise pointed out that although she transitioned in her 50s, this was due to the fact that so little was known about gender dysphoria in the field of medicine. Even today, GPs may not be knowledgeable about the issue – like Bella, Louise was required to change GP practice to one that was more trans-friendly in terms of knowledge and referral. Louise also iterated that undertaking transition was not a decision that trans people take lightly, emphasising that:

*"...it [transitioning] is a very shameful thing and by that I mean people will try and make you feel ashamed and will tell you that they're ashamed of you. It's a very shaming thing and a thing that one feels going on. Yes it is shameful, it's a shameful secret".*

**Source:** 'Louise'

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She revealed wishing that the feelings of needing to transition would disappear – this could also be the case for other trans people. Louise explained that trans women would typically work in masculine professions “...in an attempt to ‘man up’ and drive it [the shameful secret] away”. Moreover trans people are likely to live in a conformist manner by marrying a person of the opposite biological gender and having children, in the hope that this will suppress the need to transition. Louise highlighted that the decision to transition was not based on a desire, but a last resort. Given the binary gender model discussed in the literature review depicting society’s rigid views of gender combined with statistics revealing the ill-treatment of trans people, it can be deduced that transitioning is a last resort for many individuals.

### **5.3.3 ‘Coming out’ & Reactions**

Louise explained that she initially ‘came out’ to her immediate line manager and Head of Department. She recalled that although they were surprised at the news, they expressed their support whilst admitting having very little knowledge or experience of supporting staff needing to undergo gender realignment. Louise states she made a conscious decision to undertake the transition as slowly as possible as she was mindful that it would take her colleagues and students some time to become accustomed to her preferred gender. She explained that many trans people would declare that their colleagues were unable to cope with or accept their transitions. Louise emphasised that:

*“What I’ve always said to them [trans people], the ones who said this to me is ‘how much did you do*

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*to meet them [work colleagues] half way? Because it is a bit of a shock all-round and you have got to meet them half way.....It is very hard for people to cope with, so you really have to do something on your own behalf to help. A lot of people will demand but they won't give."*

**Source:** "Louise"

She continued that if colleagues had always known a person in one gender and suddenly are required to treat them in a different way, they will need help in doing so. Louise summarised this thought by explaining:

*"To demand acceptance, it is cruel and harsh and I think actually going to end in disaster...I think it makes everybody unhappy".*

This objective assessment can be true of cases where management demand that employees immediately begin addressing a trans colleague in their new name and gender appropriate pronouns, or risk punishment. In these instances, forcing acceptance can be highly damaging for all parties concerned. A case study by Barclay & Scott (2005) demonstrated the impact of adopting such a strategy. When an employee 'came out' as trans, there were no guidelines or processes in place on how to manage such cases.

Management at the public sector organisation opted for an aggressive acceptance approach, threatening punishment for anyone unintentionally using a trans colleague's previous name or incorrect pronoun. As a result, staff were left feeling alienated and subsequently avoided all contact

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with the individual – culminating in a complete breakdown of working relationships.

Louise mentioned that despite undertaking steps to ensure a gradual transition at work, there were mixed reactions to the news. She stated that she informed her student groups personally during their lessons and they fully accepted the news, adjusting to the new name and correct pronouns with ease. She recalled that the support staff also fully accepted the transition without difficulty. She mentioned that she chose to inform her closest colleagues on a one-to-one basis and this gained a positive response. Louise recalled announcing the news to her wider circle of colleagues during a staff meeting and offering an explanation to avoid her situation becoming the subject of gossip. Louise stated that whilst her extended circle of colleagues expressed words of support publicly, she later found that the opposite was true.

#### **5.3.4 Treatment by Colleagues & HR**

Louise recalled being ‘slowly frozen out’ at work by her extended colleagues. She reflected that the change of treatment had been very subtle; changes included being left out of meetings and seeing colleagues in small groups looking at her direction whilst whispering and laughing. Of course, as she remembered the ill-treatment being very subtle and difficult to prove, she was unable to have these issues resolved. Louise revealed that she did not have regular one-to-one meetings with her manager; as a result, she was not able to voice her concerns to anybody.

Louise recalled that her HR department had very little involvement in her transition, only

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acknowledging this by asking her to complete paperwork enabling them to change her gender on their HR records. Louise remembered that this had been very formal with no discussion regarding her transition or otherwise. Consequently she felt unable to confide in HR too. The department's lack of involvement also had other implications as well; Louise revealed that she was not entitled to special leave to attend medical appointments and treatment. As a result, she said that she had to accommodate these during her holidays.

Louise reflected that the ill-treatment by colleagues persisted with no intervention by management nor HR. She stated that this eventually concluded with her leaving the organisation after approximately 5 years of lack of support.

### **5.3.5 Final Outlook**

Louise advised that organisations should appreciate how lonely transitioning can be for a trans person. She reflected:

*"It's a burden you carry inside yourself, not of your choosing, which makes life awkward and it can make life difficult depending on who you are".*

Louise continued that undergoing transition in front of colleagues who know you well is extremely frightening. It could also be deduced that in some cases, transitioning at work can also feel intimidating if the workplace climate is extremely negative towards trans people. Going on, Louise



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advised that transitioning should not merely be a technical matter for organisations and that they must appreciate that offering support can make a difference to an individual. Even if an organisation does not have any formal policies or guidelines in place to support trans people, emotional support can be offered informally by colleagues, management and HR. Of course, in Louise's case and as seen in the case against Brighton & Hove Council, appropriate support would have ensured that both individuals would not have incurred discriminatory treatment. For Louise, this would have resulted in her remaining with the organisation.

She summarised by offering the following words of advice which can be equally applicable to colleagues, managers and HR practitioners:

*"You start off with the assumption you're entitled to dignity and respect, and if you remember those two things, you're not going to get much wrong to be honest. People are very forgiving and in my experience, as long as they feel they're going to be respected, their dignity is being preserved. I think that's what is ultimately important. That applies for trans people as well as everybody else".*

**Source:** "Louise"

The original intention of conducting interviews with the key informants was to enable the researcher to audit Best Practice against their organisation's policies and guidelines with a view of offering techniques for improvement. However as the organisation will be disbanding, this would not be a beneficial exercise.

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Overall it can be seen that the experiences of trans people in the workplace can vary at any stage of their transition. The researcher acknowledges that interviewing a statistically low sample of trans people does not allow for accurate generalisation, therefore in the next section, the researcher considers the findings of secondary research conducted with the view of facilitating the generation of meaningful recommendations.

### **6.1 Secondary Research Findings**

Current literature states that under the Equality Act (2010), public sector organisations and those which provide services to the public have a duty to:

- Eradicate negative behaviour such as discrimination, harassment, victimisation and other forms of misconduct under the Act
- Progress equal opportunities between people who have a protected characteristic and those who do not
- Advance relations between people possessing a protected characteristic and people who do not possess one

**Source:** GIRES (2011), pg 4

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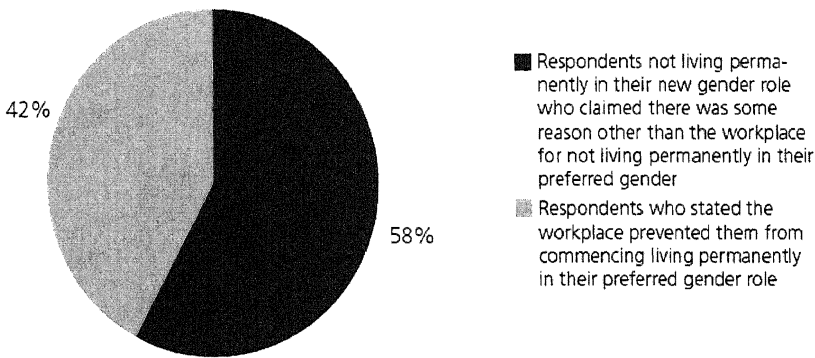
In addition, private sector organisations are also expected to adhere to similar duties (GIREs 2011). Best Practice suggests having consideration for the needs of people who may be disadvantaged in the workplace due to their trans status. For example, Whittle et al. (2007) found that 10% of trans people were subjected to verbal abuse, with another 6% encountering physical assault for openly transitioning in the workplace. Additionally, GIREs (2011) highlighted an incident where a trans employee incurred an immediate pay cut for disclosing her intention to undergo transition to her manager.

More significantly, one respondent stated that although organisations may claim to be trans-friendly and not discriminate trans people, they indirectly result in discriminating by expecting trans employees to present themselves as their biological gender. This conflicts with the GIC's requests for trans people to work in the preferred gender (Whittle et al. 2007) as individuals are obliged to undertake their real life experience in order to qualify for treatment. As a result, this prevents individuals from expressing their true gender identity.

Primary research undertaken by Whittle et al. (2007) reinforced this notion with 342 out of 873 respondents stating that they did not live permanently in their preferred gender. Graph 3 (page 63) reveals that 42% of the respondents stated that their workplace prohibited them from commencing living in their role on a permanent basis.

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**Graph 3: Respondents not currently living in preferred gender**

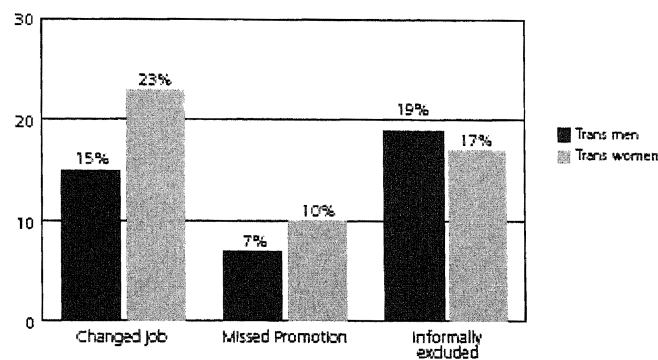


**Source:** Whittle et al. (2007), page 32

Although it could be considered that the respondents’ fears may have been unfounded, around 25% of respondents who transitioned whilst in employment had been forced to leave their organisations due to discrimination and harassment (Whittle et al. 2007). Consequently this demonstrates that a sizable sample of management and HR departments are not able to support trans people effectively. The consequences of such cases being mismanaged can be seen in graph 4, page 64.

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Graph 4: Experiences of Trans People at Work



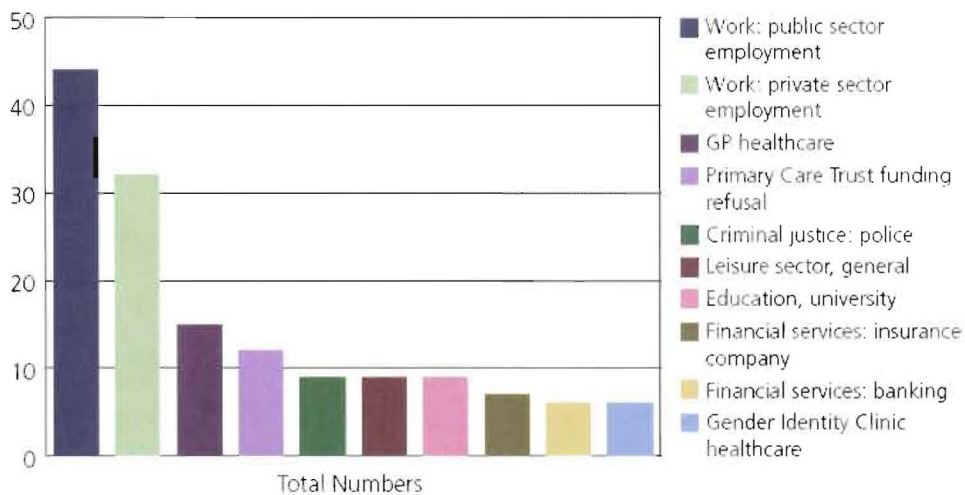
Source: Whittle et al. (2007), page 38

From graph 4 it is evident that trans women are more likely to have to change jobs or miss out on promotions as a result of transitioning. Consequently this considerably draws similarities with the literature review’s proposition regarding the disparities of treatment incurred by trans men and women. More specifically, graph 4 supports Shilt (2006)’s studies (see 3.1.9) revealing that trans women were more prone to experiencing negativity when openly transitioning at work. The significance of this finding is that it demonstrates the need for managers of trans women to improve the workplace climate. By doing so, this reduce instances of harassment that inevitably causes trans women to leave. The literature proposes that job sectors could impact on the likelihood of a trans person from experiencing discrimination. For instance, a trans woman working in a male-dominated would statistically be more inclined to face discrimination.

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On the other hand, public sector organisations are expected to champion equality and diversity as government-owned organisations. Whittle et al. (2007) surveyed the job sectors of trans respondents to ascertain if there was a correlation between job sector and level of discrimination experienced (graph 5).

**Graph 5: Top sectors where trans employees experienced discrimination**



**Source:** Whittle et al. (2007), pg 25

Surprisingly graph 5 shows that the literature is not always true, with trans employees in public sector organisations suffering from discrimination rather than the more male-dominated sectors such as the criminal justice and financial services fields. The case against Brighton & Hove Council

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(2006/07) shown in the literature review (3.1.7) is a notable example, backing up Whittle et al. (2007)'s finding in graph 5.

Additionally, a case study undertaken by Barclay & Scott (2005) into the work experiences of a trans female working in a public sector organisation further supports Whittle et al. (2007)'s findings. Barclay & Scott (2005) discovered that although public sector organisations are considered to have employee safeguards in place (such as Trade Unions, equality and diversity and HR policies), the individual still found herself being targeted for abuse from her colleagues.

The case highlighted again that although the individual's manager was in support of the transition, the lack of policy or guidance on gender realignment from HR led to a poorly-managed transition. Although the organisation set up contact persons (supervisor, manager and HR officer) for the employee to speak to and have regular meetings with, all three contact persons received very little support or training on managing the transition. Notably the HR officer felt vulnerable due to the lack of formal policies and guidance from senior management (Barclay & Scott 2005). Worryingly the Trade Union refused to support the individual despite unions being required to promote equality and diversity issues in the workforce.

It could be deduced that issues initially arose when the trans employee's manager aggressively pushed for staff's acceptance of the individual's new gender. Due to the forceful approach undertaken, staff became reluctant to approach the individual for fear of using the wrong name or pronoun, which they felt would lead to disciplinary action (Barclay & Scott 2005). The general reaction of colleagues were of surprise yet, support whereas others expressed hostility – one person

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refused to work with the individual (Barclay & Scott 2005). Often the employee was ignored or excluded from social activities; when raising this to her supervisor, the individual felt that her concerns were not taken seriously (Barclay & Scott 2005).

One colleague who strived to protect the individual from negativity found themselves under attack for being associated with her (Barclay & Scott 2005). Eventually the colleague left the organisation to escape the harassment. Under the Equality Act (2010), the colleague would have been afforded protection under the discrimination by association ruling. Ultimately the actions of the organisation resulted in the individual's departure (Barclay & Scott 2005). Often it takes a trans person time to come to terms with idea of transition; therefore it is natural for work colleagues to also require time to adjust to the individual's change of gender. This case highlights that forcefully imposing acceptance on staff and threatening formal disciplinary action for using the incorrect name and pronouns in the early stages can be detrimental to working relationships.

## **7.1 Conclusions**

This research was carried out with the intention of investigating the key issues involved in the workplace when an employee undergoes gender realignment, and offering recommendations addressing the issues raised. The fundamental issue that emerged from both the literature and interview was that many HR departments and managers tend to be unaware of accommodations or



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workplace adjustments needed to be made for a trans employee or potential employees at any stage of their transition. The consequences of this are evident in the secondary and primary research.

As a result of the lack of knowledge and understanding of transitioning, high numbers of trans people suffer workplace discrimination and instances of bullying and harassment by colleagues. The case concerning Brighton and Hove Council demonstrates this. The researcher's interview with Louise and secondary research revealed the following issues in the workplace requiring consideration at any stage of transition:

7. Informing management and colleagues of intention to undergo gender realignment
8. Relationships with colleagues after "coming out"
  - Facilitate a supportive environment that allows trans person to undertake their real life experience
  - How to tackle instances of bullying and harassment
9. The right to privacy
  - Importance of management and colleagues not revealing a person's change of gender without the person's consent
10. Leave for gender realignment appointments and procedures
11. Disclosure

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- Ensuring confidentiality of an individual's change of gender

## 12. Obstacles concerning recruitment and selection

As people spend the majority of their time at work, it is important for employers to make adjustments in the workplace and provide support for the individual as they would for employees with health or other needs which require consideration. The significance of the findings and conclusions were that they enable the formulation of recommendations that were realistic, simple to implement, was cost-effective and ensure compliance with the Equality Act (2010). The following section offers recommendations for organisations to undertake in the event of either an employee disclosing their intention to undergo transition or recruiting a trans person.

### 8.1 Recommendations

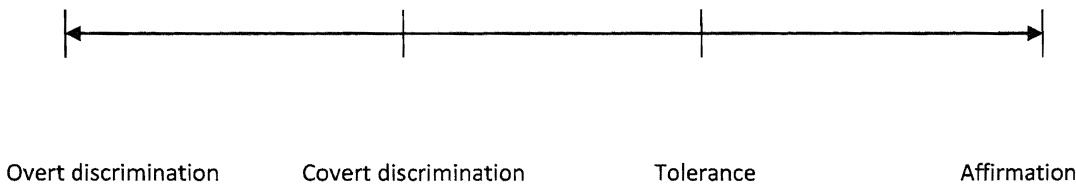
After considering the findings of the secondary research and interviews, the researcher proposes that the following steps are undertaken by HR or management in order to facilitate a transition that promotes employee wellbeing and adheres to Best Practice whilst complying with the Equality Act (2010).

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8.2 When Employee Advises of Intention to Transition

As evident in the literature review and primary research, ‘coming out’ can be distressing for an individual, therefore it is highly recommended to offer the employee privacy and time to discuss their upcoming transition. Managers and HR professionals should consider the workplace climate and discuss with the individual the timescales for ‘coming out’ to their colleagues, presenting them self in their preferred gender and allowing leave for treatment and appointments. A simple method of establishing the workplace climate is by assessing where the organisation is positioned on the continuum:

Workplace Climate Continuum



**Source:** Diagram adapted from Chojnacki & Gelberg (1994)

A workplace climate positioned towards the left of the continuum must receive intervention, even if the discrimination is more covert. As seen in Louise’s experience, covert discrimination can lead to employee turnover and undermine their quality of work life. HR professionals should ensure that

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they facilitate appropriate training to promote equality and diversity awareness amongst employees. Bullying and harassment policies should also make it clear that discrimination on the basis of a person's trans status or perception of being trans is unacceptable and will not be tolerated by management.

Depending on the level of discriminatory behaviour, these should be addressed on an informal basis to offer an opportunity for improved behaviour. Serious incidents such as threatening behaviour and physical abuse should immediately be addressed formally according to the organisation's bullying and harassment policy. Promoting an inclusive workplace climate with clear penalties for undermining this can move an organisation towards the right hand side of the continuum. As a result, this provides a suitable workplace climate for an individual to transition in. Arranging regular one-to-one meetings with the trans employee can help identify if there are instances of discrimination, bullying and harassment which warrants action.

#### **8.2.1 Agreeing on a Plan of Action**

Developing a plan of action is advisable for the purposes of deciding on how to proceed with managing the employee's transition. When creating the action plan, it is highly advisable to consider individual's wishes on how to proceed. No transition is exactly the same therefore plans of actions should be tailored to suit the needs of each individual. a:gender (2011) state that the following aspects should be discussed when formulating the transition plan:

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- The anticipated points in time for change of name, personal details and gender (email address, staff ID badge, uniforms may need to be changed)
- Discuss workplace options with individual – ask if they wish to remain in current post/base or whether they wish to be redeployed. If so, is this on a permanent or temporary basis?
- Discuss probable amount of time required as leave for medical appointment and surgery (if applicable). Agree on the handling of such absences
- The amendment of employee records to reflect the change of personal details (should former ID documents be kept on file?)
- Consult with individual to agree when and how colleagues should be informed. HR should ascertain whether training in gender identity issues will be required to help raise awareness and dispel misconceptions about transition
- Decide on how to handle media interest or hostility against the individual

**Source:** a:gender (2011), pg 17

a:gender (2011) advise against using the above points to dictate the pace of the transition process as this could alienate the individual.

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### **8.2.2 Discussing Leave for Treatment**

A number of trans employees may request leave when undergoing transition, to return in their acquired gender. This can be advantageous as it allows the organisation to amend workplace records and IT systems to reflect the individual's name change and gender. Furthermore being able to change email addresses and ID badges allows the individual to fully express their acquired gender without confusing customers and colleagues with conflicting information.

HR practitioners and management should discuss leave entitlement for attending appointments and treatment. As PCTs tend to refer trans people to the largest GIC in the UK, Charing Cross Hospital in London, employers should be mindful to allow sufficient time for travel. All treatments have various recovery times and conducting a sensible assessment of how much time will need to be taken off throughout the course of transition is beneficial.

Regardless of whether a break is taken, a new staff ID badge should be issued to grant the individual respect, preserving their dignity and showing that their transition is being taken seriously. Email addresses and employee records should also be changed as soon as possible too.

### **8.2.3 Consult with Trans Employee to Select a Main Point of Contact**

Consult with the individual to establish who they would prefer to nominate as an initial point of contact. This contact person should manage the transition in order to co-ordinate the actions needing to be undertaken for informing colleagues, managing queries raised by colleagues relating

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to the transition and act as an intermediary for the individual.

It is likely that the contact person may not be experienced or knowledgeable about trans issues so it is advisable to arrange assistance with a local LGBT support group for the purposes of filling gaps in knowledge for all involved.

#### **8.2.4 Informing Management and Colleagues**

Trans employees find that they will not have anonymity if transitioning whilst being in the workplace. An important part of qualifying for gender realignment surgery is living undertaking the real life experience on a full time basis – a process which may last up to two years. As such, trans people have little option but to inform either their direct line manager, senior manager or the HR department. This can be distressing in itself as an individual cannot predict how their manager or HR will respond.

As revealed in the literature, management and HR should understand that most trans people are likely to have kept their gender identity a secret for decades before resorting to transitioning. Evidence from the primary and secondary research shows that it is not a decision taken lightly and thus must be taken seriously by organisations. An agreement on communicating the upcoming transition must be reached between the individual and management. The strategy for informing colleagues should take account of the size of the organisation. For example, an organisation

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operating on shift working will require repeated communication to ensure that the message reaches all employees (a:gender 2011). In this instance, it may be more practicable to cascade the message via email. The individual may wish to do this directly (if the threat of hostile response is low) or request that the nominated contact person do this on their behalf.

For smaller organisations, face-to-face communication may work (depending on the workplace climate). At one public sector organisation with 9am to 5pm working hours, staff who were in frequent contact with an employee who was to undergo transition, were informed face-to-face by a Senior Manager accompanying the individual. This approach was successful for two reasons:

1. The workplace climate fell on the right hand side of the workplace climate continuum – coming out in person therefore had fewer risks in terms of hostility from employees
2. It allowed colleagues to openly show support for the trans employee, additionally this showed that the individual also had the support of management too.

Spurred on by positive reactions from colleagues, the individual sent out a global email to the wider organisation to ensure that they were also aware of the impending transition. Whilst able to express their gratitude, similarly they were also able to inform all colleagues of their change of name and reassure that the transition will also be unknown territory to them thus require psychological adjustment on their part too. By encouraging open dialogue, the individual received organisation-wide support with colleagues stating that they would be pleased to address them by their new name from then on.



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#### **8.2.5 Day after Organisational Announcement**

a:gender (2011) advises that thought should be given to the person's first day at work in the acquired/preferred gender (or real life experience). Managers are advised to ensure that the individual does not feel excluded – an ideal method is by ensuring that the employee is accompanied on arrival into work (a:gender 2011). Should this be a close colleague, this reinforces the message that the employee remains a valued member of the workforce.

Monitoring the workplace climate is essential once news of transition is announced, during and afterwards too. This allows managers to address any issues that may arise and instil confidence in the individual as well as reassure them that they still have a future in the organisation.

#### **8.2.6 Maintaining Relationships with Colleagues**

Providing staff with well thought-out diversity awareness training can create a more informed workforce as well as highlight that the Equality Act (2010) affords trans people and others with legal protection against discriminatory behaviour. Trans employees should be advised that whilst colleagues are encouraged to address them by the correct pronoun and name, this may require time as people adjust to the change. Although it may feel uncomfortable, the individual should not feel that the use of incorrect pronouns or former name is likely to be a genuine oversight rather than an intimidating response. Of course, any instances of a person carelessly addressing the individual in

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their former gender, the manager can politely remind the colleague of this in private.

In the case of repeated or intentional lapses – more so in the presence of those unaware of the individual's transition – this may require intervention under the organisation's Disciplinary or Bullying and Harassment Policy (a:gender 2011). Examples of bullying and harassment against trans people can consist of offensive acts or remarks by an individual or groups of people such as:

- Derogatory remarks, gossip or innuendo and repeated use of the incorrect name/pronoun
- Threatening to disclose an individual's change of gender without consent
- Distribute or display material that could be perceived as offensive
- Excluding a trans employee from social activities
- Refusal to work alongside the individual due to their trans status
- Highly intrusive questioning of the individual undergoing transition or having completed gender realignment

a:gender (2011)

Although trans people may be willing to answer colleagues questions or queries relating to the upcoming gender realignment, the individual's contact person should politely remind colleagues that questions of an intimate or highly personal nature are not appropriate to ask anybody let alone the

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individual. Whilst encouraging colleagues to ask questions in order to generate support, managers should make it clear that external customers or clients will not be aware of the individual's transition. Consequently, it is everyone's responsibility to maintain the individual's privacy.

Informal discussions with a trans person and current literature reveals that they may also have to cope with hostile reactions from their family and friends. To promote the individual's wellbeing, it is crucial to ensure that relationships with colleagues are maintained. Furthermore, facilitating a supportive environment for a trans person allows them to undertake their real life experience without being subjected to bullying or harassment. Frequent monitoring of the work environment is highly advisable for the purposes of resolving issues against the employee's transition before it escalates.

The individual's line manager should ensure that they take note of any problems raised during one-to-one meetings and act on those promptly or escalate appropriately so that correct action may be taken. Low-level gossip should not be ignored by managers – in the first instance, this should be dealt with informally as the perpetrator(s) may not be aware of the emotional impact it has.

Proactively dealing with gossip, name-calling and divisive behaviour can prevent serious cases of bullying and harassment. Of course, very serious incidents such as threatening behaviour should be dealt with formally under the organisation's Disciplinary Policy.

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### **8.2.7 Maintaining Privacy**

Depending on the individual's preference, they may first report their intention to undergo transition to their line manager, HR, a Union Representative or a close work colleague. Regardless of who they choose, it is crucial that the individual's confidentiality is maintained due to the sensitivity of the matter – unless they have the prior consent of the individual to disclose this. The timing of “coming out” initially could be due to the individual being guided by medical treatment i.e. preparing to undertake their real life experience. For trans individuals and especially those living in ‘stealth’, organisations must strive to ensure that staff do not reveal their trans status in the vicinity of the public or customers. The implications of revealing an individual's change of gender is the potential of prejudice or abusive behaviour from customers. For a trans employee in a public sector organisation, failure to maintain a trans individual's privacy could lead to unwanted media attraction and intrusive questioning from the public.

### **8.2.8 Customer-facing Roles**

Customer-facing roles can require a trans employee to have frequent contact with the public. Employers are advised not to remove an individual from a public facing role due to their trans status (a:gender 2011). It is highly advised to establish how the individual in question wishes to proceed. Some may carry out their lives in ‘stealth’ without issue, whereas others may initially lack the confidence to continue in a customer-facing role. In this instance, it would be appropriate for an employer to arrange a temporary or permanent change of duties (a:gender 2011). This ensures that

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the organisation retains the skills and experience provided by the employee.

Should a customer or member of the public refuse service from the individual on the basis of their trans status, this must be viewed as an unacceptable objection in the same manner as refusing service from a person on the basis of their ethnicity. As a result, this situation must be treated in the same manner as any other form of discrimination. Moreover, a:gender (2011) advises that it can be unlawful for an organisation to comply with the wishes of the customer in this situation.

#### **8.2.9 Disclosure of Gender Status**

An individual's previous gender is part of their private medical history and as such, must be treated as sensitive information by employers and HR. It is considered to be Best Practice to assume that a trans employee is in possession of a Gender Recognition Certificate (GRC) which entitles them to be legally recognised in their acquired gender. Employers should be aware that under the Gender Recognition Act (2004), it is illegal to disclose an individual's gender history (a:gender 2011).

A GRC also allows an individual to retire and receive the state pension at the age appropriate to their acquired gender (a:gender 2011). Information pertaining to an individual's gender realignment should therefore be destroyed unless there is a substantial reason for retaining it (a:gender 2011). An ideal solution in this instance would be to store the information with restricted access and not passed on to any other party without the consent of the individual. For example, the researcher's current organisation ensures that employees' bank details are stored with restricted access,

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separate from an individual's personnel file. This prevents any accidental disclosure of sensitive information and ensures that appropriate steps are undertaken to protect the confidential information provided by employees.

#### **8.2.10 Obstacles relating to Recruitment & Selection**

##### **Application Stage**

During the application stage of a recruitment process, organisations may request disclosure of former names – this could either be requested in the application form, recruitment paperwork or through the completion of a CRB form. Consequently this can inadvertently disclose an individual's former gender and trans status which in turn, undermines their right to privacy (a:gender 2011). More significantly, the unintentional disclosure could potentially affect the individual's chances of being appointed to a role (a:gender 2011).

According to a:gender (2011), Best Practice would be to undertake checks that could potentially disclose an individual's trans status such as reference requests or CRB checks, towards the end of a recruitment process. Of course in some public sector organisations such as acute hospitals, CRB checks tend to delay recruitment by many weeks, thereby this could impact on staffing and ultimately patient care. A more considerate approach would be to ensure that applicants are given organisation-issued guidelines on completion of CRB forms for all applicants. As there is a

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confidential checking process for trans people, the contact number and email address of this service should additionally be provided in the guidelines. Utilising this technique is beneficial for all applicants who are not familiar with the completion of forms, furthermore organisations are not required to delay recruitment, thereby promoting an efficient and equitable recruitment process.

It should also be made clear in the guidelines that trans individuals who may have a criminal record or caution could expect this to appear in their former name unless they have changed their details with the Police National Database (PfC 2012). With regards to applying for reference requests, employers should seek permission from all applicants prior to proceeding so that they have an opportunity to contact their employer and establish that their reference will not disclose their previous name or gender.

### **Interview Stage**

Employers are restricted from enquiring about issues of a personal nature such as maternity and health as these factors are not a relevant criterion for selection (a:gender 2011). Similarly employers should not query an individual's gender status as this does not affect one's ability to undertake a job role nor is it an appropriate selection criterion. Asking such questions can imply discrimination and should be avoided. Of course, if a trans applicant is given a conditional job offer, they then have an opportunity to declare any health issues (i.e. hormone therapy) that they feel would require reasonable adjustments. If they do not declare any issues, employers should not challenge this.

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Any disclosure that is made voluntarily must be held in confidence. If this information is required to be shared, it is highly advisable to seek permission from the applicant. It is of utmost importance not to allow the trans status of an applicant to prevent their chance of being offered a post; should a trans individual suspect that they failed to obtain the post due to being trans, it is then up to employers to prove that no discrimination has occurred at any stage of the recruitment process (a:gender 2011).

### **8.3 Implications of Recommendations**

After evaluating evidence from the literature and primary research, it is clear that there is a valid business case for adopting a trans-friendly workplace. Benefits comprise:

- A less stressful work environment which promotes highly productive teams
- Lower threat of litigation
- Become an employer of choice thus helping to attract and retain a highly skilled workforce
  - Having a diverse workforce can help organisations better serve their population or customer-base (i.e. the NHS can commission healthcare services appropriate to the needs of the trans population that they serve)
  - Allows organisations to produce and market products or services to previously

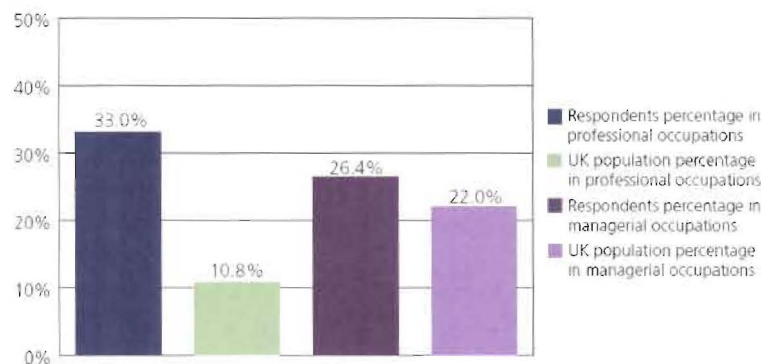


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untapped markets

- By fostering optimal working relationships, organisations can benefit from the skills and talents that trans employees have to offer. Graph 6 reveals that 33% of trans people were employed in professional occupations compared with 10.8% of the UK population, providing valuable knowledge

**Graph 6 – Occupational Class of Respondents in Comparison to UK Population**



**Source:** Whittle et al. (2007), pg 30

The implications of the recommendations in this paper are that it provides a realistic method of supporting trans employees through transition. Handling cases with sensitivity can hugely improve the trans person’s wellbeing and retention. Additionally, this promotes the organisation as being an employer of choice and can enhance organisational reputation whilst reducing the threat of

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litigation.

#### **8.4 Summary**

This paper aimed to investigate the key challenges involved when an employee undergoes transition. The researcher undertook primary research to gain a deeper understanding of the issues faced by two key informants who had differing experiences of transitioning. Whilst gaining a richer understanding of the key challenges faced by trans employees undergoing transition, the small sample size cannot allow for generalisation.

Although this poses a key limitation, the researcher proposes that this paper is just the beginning for further research. The topic of trans people in the workplace (at this point in time) has been poorly investigated and lacks behind other equality and diversity issues. This can be attributed to the sensitive nature of the topic; notably the researcher even encountered difficulties in obtaining permission to undertake the research. Furthermore, securing willing participants proved problematic due to the sensitivity of the topic, not to mention fear of discrimination or having their identity disclosed.

As society moves on, issues of sensitivity may become less challenging, allowing for greater understanding and awareness of supporting trans people in employment. Until then, the disturbing ignorance among employers about the legal protection of transsexuals and good equal opportunities practice will continue.

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## 10.1 Appendices

## Appendix 1: LGBT Climate Inventory Sample Questions

Lesbian, Gay, Bisexual, and  
Transgendered Climate Inventory (LGBTCL)

Please rate the following items according to how well they describe the atmosphere for lesbian, gay, bisexual, and transgendered (LGBT) employees in your workplace, using the following scale.

	Doesn't Describe at All	Describes Somewhat or a Little	Describes Pretty Well	Describes Extremely Well
At my workplace . . .				
1. Lesbian, gay, bisexual, and transgendered (LGBT) employees are treated with respect.	1	2	3	4
2. LGBT employees must be secretive.	1	2	3	4
3. Coworkers are as likely to ask nice, interested questions about a same-sex relationship as they are about a heterosexual relationship.	1	2	3	4
4. LGBT people consider it a comfortable place to work.	1	2	3	4
5. Non-LGBT employees are comfortable engaging in gay-friendly humor with LGBT employees (for example, kidding them about a date).	1	2	3	4
6. The atmosphere for LGBT employees is oppressive.	1	2	3	4
7. LGBT employees feel accepted by coworkers.	1	2	3	4
8. Coworkers make comments that seem to indicate a lack of awareness of LGBT issues.	1	2	3	4
9. Employees are expected to not act "too gay."	1	2	3	4
10. LGBT employees fear job loss because of sexual orientation.	1	2	3	4
11. My immediate work group is supportive of LGBT coworkers.	1	2	3	4
12. LGBT employees are comfortable talking about their personal lives with coworkers.	1	2	3	4
13. There is pressure for LGBT employees to stay closeted (to conceal their sexual orientation or gender identity/expression).	1	2	3	4

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**Appendix 2: Consent Form**

Full title of Project: TBC (Supporting Transgender Employees at Work)

Please initial box

I confirm that I have read and understand the information sheet for the above study and have had the opportunity to ask questions.

☐

I understand that my participation is voluntary and that I am free to withdraw at any time, without giving reason.

☐

I agree to take part in the above study.

☐

Please tick box

Yes      No

I agree to the interview being audio recorded

☐☐

I agree to the use of anonymised quotes in publications

☐☐

I agree that my data gathered in this study may be stored (after it has been anonymised) and may be used for future research.

☐☐

_____	_____	_____
Name of Participant	Date	Signature

_____	_____	_____
Name of Researcher	Date	Signature



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### **Appendix 3: Cover Letter accompanying Consent Form**

Dear Participant,

Thank you for agreeing to participate in the study of managing transgender employees through gender realignment.

Currently, many organisations do not have policies or procedures for managing transgender employees and their colleagues through the process. This research is being conducted as it is important for enabling Human Resources practitioners to find out how transgender employees can be managed through the transition process. The study will also look at how line managers and HR departments can provide support and guidance for transgender employees and their colleagues through this period of change.

Your contribution will provide valuable insight into how HR professionals and management can ensure that they provide a suitable environment to facilitate the change process

This research will be submitted to the University of Bedfordshire. You have kindly agreed to take part in an interview.

#### **Confidentiality and Data Protection**

The interview will be conducted by the researcher, Selina Jassal as a student of the University of Bedfordshire.

The responses that you provide will not be presented in a way that identifies you to the University of Bedfordshire nor any prospective readers. Any person identifiable information that you disclose will not be shared and will only be accessible to the researcher. It will not be used for any other purpose other than for this study.

You have the right to withdraw from this study at any time.

I thank you in advance for your valuable contribution.

Yours sincerely

Selina Jassal  
MSc HRM Student

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Appendix 4: Interview Protocol

Research Project Interview

Date	
Location	

Researcher:	Selina Jassal (SJ)
Interview with:	Expert Witness
Also present:	

*Hi X, thank you for agreeing to participate. As you are aware, this interview is being conducted for the purposes of a research project. This project aims to equip HR professionals and managers with the knowledge and understanding required to manage transgender employees through gender reassignment as smoothly as possible.*

*SJ Your experiences will provide a valuable insight to understanding the concerns, issues and obstacles that people undergoing transition may face at work and how HR professionals and managers can provide support throughout the process.*

*If at any point you want to adjourn the interview then you are entitled to do so. Also if there are any questions that you're not comfortable with answering then you may decline to offer an answer.*

*SJ Are you happy to continue?*

*SJ What position did you hold when you were beginning to undertake transition?*

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SJ      How long had you been in that role?

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SJ      And when did you decide to transition?

---

---

SJ      When did you first realise that your gender identity didn't match up to your biological gender?

---

---

SJ      Did it cause any problems while you were at school?

---

---

SJ      Were issues of gender dysphoria well known then?

---

---

SJ      Were your family aware of how you were feeling whilst you were young?

---

---

SJ      So you first felt not quite at ease with your gender whilst you were a child

---

---

SJ      Was there a gap between when you first realised that you wished to transition and when you actually did?

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SJ I totally understand that. After speaking to other people it's not obviously something you'd do on a whim.

---

---

SJ So as you mentioned, you were around about the age of X (years old) when you decided you needed to transition...

---

---

SJ How did you decide to inform your place of work?

---

---

SJ Of course that's a very good point to make. Today with all the legislation in place, people know that they've got their rights but as you've said....that is a very good point to make

---

---

SJ So you approached your immediate boss and the XXXXX. Were they able to refer you to anybody else within the University who might be able to help?

---

---

SJ Again it's like the issue of using toilets.

---

---

SJ Were issues dealt with by your management?

---

---

SJ How did you decide to inform your colleagues?

---

---

SJ So was it you who had to devise the strategy to inform everybody or did you have any support at all?

---

---

SJ Was your GP able to help?

---

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SJ      So they weren't knowledgeable about gender dysphoria or anything like that?

---

---

SJ      Were they able to help you with that?

---

---

SJ      Going back to work, did you have any fears or concerns about informing everybody? Such as worries about their reactions?

---

---

SJ      You've already mentioned some of this but did most of your fears actually materialize?

---

---

SJ      Were you given any opportunities to voice your concerns to anybody?

---

---

SJ      So when you communicated your intention to transition, do you feel it was handled exactly how you wanted it to be handled?

---

---

SJ      Were your HR department able to support you?

---

---

SJ      How did they deal with issues such as changing your HR records?

---

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SJ      Were you entitled to any special leave?

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SJ Did you have any regrets about coming out whilst at work?

---

---

SJ If you could go back in time, is there anything else you would have done differently?

---

---

SJ If you were to advise an organisation on how they should provide adequate support, is there anything in particular you'd want them to take on board?

---

---

SJ Thank you so much for your help, your insights have been of immense value and will allow me to generate meaningful recommendations that aim to support trans people in the workplace. Thanks a lot and hopefully I'll be in touch with the final report soon.

---